



2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB830)

Received: **12/20/2005**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Scott Becher (aide)**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - decisionmaking**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Wieckert@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Anatomical gifts and powers and duties of coroners and medical examiners

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	dkennedy 01/06/2006	lkunkel 01/09/2006	rschluet 01/09/2006	_____	lnorthro 01/09/2006	lnorthro 01/09/2006	
/2	dkennedy	lkunkel	jfrantze	_____	lemery	lemery	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/12/2006	01/12/2006	01/12/2006	_____	01/13/2006	01/13/2006	

FE Sent For:

<END>

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Anatomical gifts and powers and duties of coroners and medical examiners ✓

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/?	dkennedy 12/28/2005	lkunkel 12/29/2005		_____			
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FE Sent For:

<END>

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May Contact:

Addl. Drafters:

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Topic:

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FE Sent For:

<END>

1/mk 1/9

196
pb

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB830)

Received: 12/20/2005

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing: Scott Becher (aide)

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject: Health - decisionmaking

Extra Copies:

Submit via email: YES

Requester's email: Rep.Wieckert@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Anatomical gifts and powers and duties of coroners and medical examiners ✓

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/?	dkennedy						
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p1/mk 12/29 CH
12/29
CH
30 12/29

FE Sent For:

<END>

Kennedy, Debora

From: Sweet, Richard
Sent: Tuesday, December 20, 2005 3:16 PM
To: Kennedy, Debora
Subject: FW: Amendment request

Attachments: 13ab830_rns

From: Sweet, Richard
Sent: Tuesday, December 13, 2005 11:19 AM
To: Kennedy, Debora
Cc: Becher, Scott
Subject: Amendment request

Debora,

Rep Wieckert would like to request a substitute amendment to AB 830 (coroners and tissue donations), along the lines of what is described in the attached memo.

Thanks for your help.

Dick



13ab830_rns.doc
(83 KB)



WISCONSIN LEGISLATIVE COUNCIL

208-1823

12/20/05 Note to file: The pencilled-in comments on this memo are as a

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: REPRESENTATIVE STEVE WIECKERT

FROM: Richard Sweet, Senior Staff Attorney

RE: Working Sessions on 2005 Assembly Bill 830 (Anatomical Gifts and the Powers and Duties of Coroners and Medical Examiners)

DATE: December 13, 2005

This memorandum summarizes two working sessions on November 21 and December 5 involving persons interested in 2005 Assembly Bill 830. That bill relates to anatomical gifts and the powers and duties of coroners/medical examiners. This memorandum summarizes items on which consensus was reached.

Removal of Organs

With regard to SECTION 6 of the bill, which relates to removal of organs and notice to coroners/medical examiners, there appeared to be consensus on the following points:

✓ • The provision on advance notice to the coroner/medical examiner of the intended removal should be modified to be require that the notice be given by the organ procurement organization (OPO) at the time the OPO receives a referral from a hospital of a potential donor. 157.06(4m)(a)1.

✓ • The provision dealing with advance notice of intended removals ~~and the provision dealing with the opportunity to be present during a physician's removal of a vascularized organ should both be modified to also require that a district attorney or a district attorney's designee be notified and that a district attorney or a district attorney's designee has the opportunity to be present.~~ 157.06(4m)(a)1.

✓ • Notice to the coroner/medical examiner or designee must be through verbal conversation with the coroner/medical examiner or designee. Notice to the district attorney or designee would not be limited to this means of communication. 157.06(4m)(a)1. *oral*

✓ • The physician who undertakes an organ removal should be required to complete a standard form that would be forwarded by the physician to the coroner/medical examiner. The form would contain any information that the physician finds that might be useful to a coroner/medical examiner in

D-NOTE

157.06(4m)(cm)

performing a death investigation. The form will be promulgated by the Department of Health and Family Services by rule, with the advice of an advisory committee that would include coroners/medical examiners, OPO personnel, and district attorneys. *emergency rule making? w/o finding of emergency?* *(9m) + Not stat*

✓ • The provision on denial of organ removal would be clarified to allow the designee of a coroner/medical examiner to deny removal if the designee is present during the scheduled removal. This could be accomplished by replacing "he or she" with "the coroner, medical examiner, or designee" at two places on page 4, line 9 of the bill; and by adding "the coroner, medical examiner, or designee" after the comma on page 4, line 10. *157.06(4m)(b)*

Use of Tissue Banks for In-Hospital Deaths

There appeared to be consensus with the provision in SECTION 7 of the bill that requires use of the tissue bank with which a hospital has an agreement for deaths that occur in a hospital when the decedent is in the custody of a coroner/medical examiner, with the following changes:

See WHA comments • If no tissue bank with which a hospital has an agreement wants a tissue for a particular decedent who is within the custody of the coroner/medical examiner, those tissue banks would be required to notify the coroner/medical examiner of this. The coroner/medical examiner would then be required to notify a tissue bank with which it has an agreement (unless it is the same as the hospital's tissue bank that had already refused the tissue). The tissue bank to which the coroner/medical examiner refers this information could then contact the decedent's family members or other persons authorized to make anatomical gifts on behalf of the decedent. *could*

CR 979.01(5) ✓ • The statutes relating to coroners/medical examiners would specify that a coroner/medical examiner has the authority to release a decedent who is within his or her custody to a tissue bank in the circumstance described above under the first item. *would be required to*

157.06(4r)(a) • A hospital, in the circumstance described above under the first item, would be required to do one of the following: (1) enter into a written agreement with the tissue bank with which the coroner/medical examiner has an agreement, allowing that tissue bank to remove the tissues in the hospital; or (2) release the decedent's body to that tissue bank for removal of tissues outside the hospital.

✓ Selection of Tissue Banks for Out-of-Hospital Deaths

There appeared to be consensus on replacing the portions of SECTION 7 of Assembly Bill 830 that require a request-for-proposals process to be used by a county to select a tissue bank with the following process:

If the county refers tissue - unnecessary bec of any referral ✓ • The coroner/medical examiner would be required to enter into a written agreement with one or more tissue banks after considering the following criteria--a tissue bank's history, services, traditional referral patterns, geographic service area, and tissue distribution record, and any other criteria that the county's corporation counsel requires the coroner/medical examiner to consider. *out p. 5*

157.06(4r)(b)

✓ • A written agreement between a coroner/medical examiner and a tissue bank would be subject to approval by the county's corporation counsel. 157.06(4r)(b) 2. a

✓ • The county board would have passive review authority over the written agreement. Within 60 days after the corporation counsel approves the agreement and transmits it to the county board, a county board may either take no action or request review of the agreement. If the county board takes no action within the 60 days, the agreement is final. If the county board requests review, the agreement is final only if the county board approves the agreement or does not act on it within the 60 days. 157.06(4r)(b) 2. b.

In addition, there appeared to be consensus on the following items:

✓ • In situations in which a coroner/medical examiner enters into a written agreement with more than one tissue bank, tissue donors would not need to be referred to the tissue banks on "an equal rotating basis."

✓ • A tissue bank with which a coroner/medical examiner has entered into a written agreement needs to be accredited by the American Association of Tissue Banks (AATB) or audited at least once every two years by an organization that is accredited by AATB. 157.06 (4r)(b) 3.

Feel free to contact me if I can be of further assistance.

RNS:tlu:kms:jal

Kennedy, Debora

From: Becher, Scott
Sent: Tuesday, December 20, 2005 3:06 PM
To: Kennedy, Debora
Subject: FW: Drafting instructions for a substitute amendment to Assembly Bill 830

Attachments: FW: Memorandum from Richard Sweet, Legislative Council; FW: Dick Sweet Memo; FW: Memorandum from Richard Sweet, Legislative Council; FW: Forensic Pathologists; FW: AB 830 Memo



FW: Memorandum
from Richard Sw...



FW: Dick Sweet
Memo



FW: Memorandum
from Richard Sw...



FW: Forensic
Pathologists



FW: AB 830 Memo

-----Original Message-----

From: Christianson, Peter C. [mailto:PCC@quarles.com]
Sent: Tuesday, December 20, 2005 3:04 PM
To: Sweet, Richard
Cc: Becher, Scott; Maroney Lisa A.; am.dalessandro@hosp.wisc.edu
Subject: Drafting instructions for a substitute amendment to Assembly Bill 830

Dick -

Scott Becher in Rep. Wieckert's office has asked me to pull together the comments which have been received concerning Assembly Bill 830. Attached to this e-mail are five separate e-mails which constitute the final comments/suggested revisions. For your ease of reference, I have cut and pasted below the "meat" from each of them.

It is our hope that you can incorporate these comments into drafting instructions to be given to Debora Kennedy at the LRB so that a substitute amendment will be ready in time for the Assembly Health Committee meeting the first week in January, 2006. Lisa, Tony D'Alessandro, and I will be available in case you would like one or more of us to visit with Debora with you. We know that time is of the essence because you will be off next week. We will be happy to assist in any way necessary

We are still awaiting final word from Alice O'Connor that the Coroner/Medical Examiner Association is satisfied with the changes. Alice has left several messages for John Stanley which he has not returned. Alice reported to Lisa that she did not receive any calls or e-mails from dissatisfied members. We believe that we therefore have closure with Alice's client. (Remember that after the original bill draft first surfaced, every coroner in the state contacted his or he legislature; the calls and letters have stopped flowing completely, which suggests that we are at repose.)

I would be remiss if I did not thank you for your (typical) yeoman work on this difficult matter. We greatly appreciate your wise counsel as well as your service as the scrivener during the often-contentious meetings.

Here, then, are all of the comments:

✓ A. From the Association of State Prosecutors: "The Assoc. of State Prosecutors need only be added to the section of the bill that provides notice to them (and we agree with how this reads). We do want notice of all the cases that coroners/me's receive notice and at the same time. We agree that notice for prosecutors need not be an actual conversation, but that a message has been left with the appropriate DA's office. We do not require that we be added to the section regarding being present during rule-outs."

✓ B. From the District Attorneys Association: "(T)he DA's wanted to be notified as written in the memo but did not need to have the opportunity to be present. The remaining bullet points are fine. Under Use of Tissue Banks for In-Hospital Deaths, the first sentence should be preceded by a sentence that states, 'There was consensus that the

✓ coroner's/me's shall honor the tissue bank agreements with which the hospital has entered'. The next sentence is fine. In the second sentence my understanding was that the coroner's/me's 'could' notify a secondary tissue bank and that it was not a requirement as written in Dick Sweet's memo. In the final sentence under the first bullet point, the 'could' should be changed to 'would be required' to contact the decedent's family. My understanding was that only the tissue bank and not the coroner's/me's would be able to contact the decedent's family to obtain the consent and medical-social history. The second and third bullet points in this section are fine. Under Selection of Tissue Banks for Out-of-Hospital Deaths, all the points are fine."

✓ C. For MTF: "(1) Under the section 'Use of Tissue Banks for In-Hospital Deaths': The first bullet point states that the coroner/me would then 'be required' to notify a tissue bank with which it has an agreement [that the hospital's tissue bank is not taking the donation]. Our understanding of the discussion was that the coroner/me would have the discretion to chose or not chose to make the additional referral to another tissue bank. Therefore, the 'be required' should be permissive. The requirement on the hospital's tissue bank to notify the coroner/me that it is not accepting the tissue would remain.

✓ "(2) Under the section 'Selection of Tissue Banks for Out-of-Hospital Deaths': The first bullet point should be predicated on the coroner/me's decision to engage in donation altogether as a practice (as currently drafted in AB830 Page 5 lines 12-15). In other words, if the decedent is within the coroner/me's custody and death outside hospital and IF the coroner/me makes a referral, THEN the coroner/me would be required to enter into the written agreements and follow the procedure.

✓ "This is what was agreed upon. I just want to clarify that the legislation would not require those coroners/me's who chose not to engage in any tissue donation referrals, to fall under this section. I am just clarifying that there are some counties where the coroner/me chooses not to engage in referrals at all and it would be inappropriate to have them fall under this section. This is taken care of as long as this bullet point follows the language currently in the bill as referenced above."

* ✓ D. For the forensic pathologists: "(W)e can add a sentence in the Bill in Section 6, page 4 line 6. This would be after the first sentence in number 2 which discusses that the coroner, me or designee has the opportunity to be present if in their judgement the organ may be necessary in determining the cause of death. The next sentence could read something like: 'In such cases, if available, a forensic pathologist should be consulted to discuss the case with the OPO administrator on call and/or the OPO recovering surgeon'. (4m)(a) 2. 157.06 (4m)(a) 2. may by the OPO

E. For Wisconsin Hospital Association: "Regarding bullets one and two, both the first and the second bullets seem to assume that the coroner would not be releasing the body prior to tissue recovery. Does this encourage the coroners not to release the body even after their investigation is complete -- adding a layer of complexity for hospitals? WHA believes it makes more sense for the coroner to release the body, but then give the coroner the authority to regain custody of the body for purposes of tissue recovery if the hospital tissue banks refuse the tissue. Regarding bullet point three, we believe that the only requirement for the hospital should be to release the body to the coroner, not the 'tissue bank' for removal of tissues outside of the hospital (in cases where the hospital contracted tissue bank refuses the donation). Let's remain silent on the contract issue as we will let individual hospitals, tissue banks and coroners work those issues out on their own if they want to do the recovery in the hospital."

<<FW: Memorandum from Richard Sweet, Legislative Council>> <<FW: Dick Sweet Memo>>
<<FW: Memorandum from Richard Sweet, Legislative Council>> <<FW: Forensic Pathologists>>
<<FW: AB 830 Memo>>

?

This electronic mail transmission and any attachments are confidential and may be privileged. They should be read or retained only by the intended recipient. If you have received this transmission in error, please notify the sender immediately and delete the transmission from your system. In addition, in order to comply with Treasury Circular 230, we are required to inform you that unless we have specifically stated to the contrary in writing, any advice we provide in this email or any attachment concerning federal tax issues or submissions is not intended or written to be used, and cannot be used, to avoid federal tax penalties.

Kennedy, Debora

From: Maroney Lisa A. [la.maroney@hosp.wisc.edu]
Sent: Tuesday, December 20, 2005 2:37 PM
To: Christianson, Peter C.
Subject: FW: Memorandum from Richard Sweet, Legislative Council

-----Original Message-----

From: Michelle Mettner [mailto:mmettner@broydrick.com]
Sent: Thursday, December 15, 2005 3:14 PM
To: Becher, Scott
Subject: Re: Memorandum from Richard Sweet, Legislative Council

Scott: Thank you for forwarding this. The Assoc. of State Prosecutors need only be added to the section of the bill that provides notice to them (and we agree with how this reads). We do want notice of all the cases that coroners/me's receive notice and at the same time. We agree that notice for prosecutors need not be an actual conversation, but that a message has been left with the appropriate DA's office. We do not require that we be added to the section regarding being present during rule-outs.

Thanks!
Michelle

Michelle I. Mettner
Broydrick & Associates
44 E. Mifflin, Suite 404
Madison, WI 53703
(608) 255-0566 (office)
(608) 255-4612 (fax)
(608) 692-8541 (cell)

From: "Becher, Scott" <Scott.Becher@legis.state.wi.us>
Date: Tue, 13 Dec 2005 11:27:29 -0600
To: "Maureen McNally" <mmcnally@fmlh.edu>,
<bill.mccoshen@capitolconsultants.net>, <aoconnor@murphydesmond.com>,
<mcintosh@broydrick.com>, <jtierney@broydrick.com>,
<mmettner@broydrick.com>, <wadiummm@co.outagamie.wi.us>, "James L.
Palmer II \ (Business Fax)"
<IMCEAFAX-James+20L+2E+20Palmer+20II+40+2B1+20+28608+29+20273-3904@legis
.state.wi.us>, <tony@tx.surgery.wisc.edu>, <pcc@quarles.com>,
<la.maroney@hosp.wisc.edu>, <mvaughan@murphydesmond.com>,
<kbablitch@milwcnty.com>, "Jambois, Robert - DOT"
<robert.jambois@dot.state.wi.us>, <palmer@wppa.com>
Subject: FW: Memorandum from Richard Sweet, Legislative Council

Enclosed a copy of the agreed upon changes to Assembly Bill 830 as presented in Dick Sweet's Legislative Council memo. Please review this memo carefully, if you have questions or concerns please email me

directly, so that I can forward them to Dick Sweet. If I don't hear if concerns or questions from you, then I was consider that you have sign off on the memo. You have two days from the time that this is sent out at 11:25 AM on Tuesday, December 13 to review. Please call or email me if you have a problem with this deadline.

Scott Becher
Chief of Staff
Rep. Steve Wieckert
(608) 266-3070

From: Learned, Julie
Sent: Tuesday, December 13, 2005 10:22 AM
To: Becher, Scott; Rep.Wieckert
Subject: Memorandum from Richard Sweet, Legislative
Council

<<13ab830_rns>>

Kennedy, Debora

From: Maroney Lisa A. [la.maroney@hosp.wisc.edu]
Sent: Tuesday, December 20, 2005 2:38 PM
To: Christianson, Peter C.
Subject: FW: Dick Sweet Memo

-----Original Message-----

From: Dalessandro Anthony M
Sent: Thursday, December 15, 2005 10:17 AM
To: scott.becher@legis.state.wi.us
Cc: Maroney Lisa A.; pcc@quarles.com
Subject: Dick Sweet Memo

Scott, Sorry I didn't respond sooner but I've been in the operating room the last couple of days and heading back there again in the next hour or so. As regards the memo under Removal of Organs, my understanding was that the DA's wanted to be notified as written in the memo but did not need to have the opportunity to be present. The remaining bullet points are fine. Under Use of Tissue Banks for In-Hospital Deaths, the first sentence should be preceded by a sentence that states, "There was consensus that the coroner's/me's shall honor the tissue bank agreements with which the hospital has entered". The next sentence is fine. In the second sentence my understanding was that the coroner's/me's "could" notify a secondary tissue bank and that it was not a requirement as written in Dick Sweet's memo. In the final sentence under the first bullet point, the "could" should be changed to "would be required" to contact the decedent's family. My understanding was that only the tissue bank and not the coroner's/me's would be able to contact the decedent's family to obtain the consent and medical-social history. The second and third bullet points in this section are fine. Under Selection of Tissue Banks for Out-of-Hospital Deaths, all the points are fine. I will also give you a call are I send this e-mail. Thanks. Tony

Kennedy, Debora

From: Maroney Lisa A. [la.maroney@hosp.wisc.edu]
Sent: Tuesday, December 20, 2005 2:39 PM
To: Christianson, Peter C.
Subject: FW: Memorandum from Richard Sweet, Legislative Council

Importance: High

-----Original Message-----

From: Dalessandro Anthony M
Sent: Monday, December 19, 2005 10:02 AM
To: Maroney Lisa A.; pcc@quarles.com
Subject: FW: Memorandum from Richard Sweet, Legislative Council
Importance: High

Lisa and Pete, MTF comments on Dick Sweet Memo. Tony

From: Gina Reese [mailto:Gina_Reese@mtf.org]
Sent: Fri 12/16/2005 12:58 PM
To: Dalessandro Anthony M
Subject: FW: Memorandum from Richard Sweet, Legislative Council

Tony,

Following are our only two questions. Nothing serious. If you have questions, please give me a call.

Thanks,

Gina

From: Michelle Mettner [mailto:mmettner@broydrick.com]
Sent: Friday, December 16, 2005 11:53 AM
To: Becher, Scott
Cc: Gina Reese; Forbes McIntosh; Jodie Tierney
Subject: FW: Memorandum from Richard Sweet, Legislative Council
Importance: High

Scott: MTF raises two points of clarification. I do not believe either point is contentious. If others have issue with these pieces, I am happy to discuss further:

(1) Under the section "Use of Tissue Banks for In-Hospital Deaths:

The first bullet point states that the coroner/me would then "be

required" to notify a tissue bank with which it has an agreement [that the hospital's tissue bank is not taking the donation]. Our understanding of the discussion was that the coroner/me would have the discretion to chose or not chose to make the additional referral to another tissue bank. Therefore, the "be required" should be permissive. The requirement on the hospital's tissue bank to notify the coroner/me that it is not accepting the tissue would remain.

(2) Under the section "Selection of Tissue Banks for Out-of-Hospital Deaths:

The first bullet point should be predicated on the coroner/me's decision to engage in donation altogether as a practice (as currently drafted in AB830 Page 5 lines 12-15). In other words, if the decedent is within the coroner/me's custody and death outside hospital and IF the coroner/me makes a referral, THEN the coroner/me would be required to enter into the written agreements and follow the procedure.

This is what was agreed upon. I just want to clarify that the legislation would not require those coroners/me's who chose not to engage in any tissue donation referrals, to fall under this section. I am just clarifying that there are some counties where the coroner/me chooses not to engage in referrals at all and it would be inappropriate to have them fall under this section. This is taken care of as long as this bullet point follows the language currently in the bill as referenced above.

Please call me if you have any questions or concerns with these two pieces of clarification.

THANKS again for your hard work on this,
Michelle

Michelle I. Mettner
Broydrick & Associates
44 E. Mifflin, Suite 404
Madison, WI 53703
(608) 255-0566 (office)
(608) 255-4612 (fax)
(608) 692-8541 (cell)

----- Forwarded Message

From: Michelle Mettner <mmettner@broydrick.com>
Date: Thu, 15 Dec 2005 15:22:45 -0600
To: "Becher, Scott" <Scott.Becher@legis.state.wi.us>
Cc: Gina Reese <Gina_Reese@mtf.org>, Forbes McIntosh
<mcintosh@broydrick.com>, Jodie Tierney <jtierney@broydrick.com>
Subject: Re: Memorandum from Richard Sweet, Legislative Council

Scott: Gina Reese from MTF has been traveling and not had access to email. She will look at the memo and we will email you any reaction, concerns etc. asap, no later than mid-day tomorrow. Thank you so much for your patience and I apologize we were not able to make your deadline.

Talk with you soon. (And nice work on the press with your bill signing today!!!)
Michelle

Michelle I. Mettner
Broydrick & Associates
44 E. Mifflin, Suite 404
Madison, WI 53703
(608) 255-0566 (office)
(608) 255-4612 (fax)

(608) 692-8541 (cell)

From: "Becher, Scott" <Scott.Becher@legis.state.wi.us>
Date: Tue, 13 Dec 2005 11:27:29 -0600
To: "Maureen McNally" <mmcnally@fmlh.edu>,
<bill.mccoshen@capitolconsultants.net>, <aoconnor@murphydesmond.com>,
<mcintosh@broydrick.com>, <jtierney@broydrick.com>,
<mmettner@broydrick.com>, <wadiummm@co.outagamie.wi.us>, "James L.
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<IMCEAFAX-James+20L+2E+20Palmer+20II+40+2B1+20+28608+29+20273-3904@legis
.state.wi.us>, <tony@tx.surgery.wisc.edu>, <pcc@quarles.com>,
<la.maroney@hosp.wisc.edu>, <mvaughan@murphydesmond.com>,
<kbablitch@milwcnty.com>, "Jambois, Robert - DOT"
<robert.jambois@dot.state.wi.us>, <palmer@wppa.com>
Subject: FW: Memorandum from Richard Sweet, Legislative Council

Enclosed a copy of the agreed upon changes to Assembly Bill 830 as presented in Dick Sweet's Legislative Council memo. Please review this memo carefully, if you have questions or concerns please email me directly, so that I can forward them to Dick Sweet. If I don't hear if concerns or questions from you, then I was consider that you have sign off on the memo. You have two days from the time that this is sent out at 11:25 AM on Tuesday, December 13 to review. Please call or email me if you have a problem with this deadline.

Scott Becher
Chief of Staff
Rep. Steve Wieckert
(608) 266-3070

From: Learned, Julie
Sent: Tuesday, December 13, 2005 10:22 AM
To: Becher, Scott; Rep.Wieckert
Subject: Memorandum from Richard Sweet, Legislative
Council

<<13ab830_rns>>

----- End of Forwarded Message

Kennedy, Debora

From: Maroney Lisa A. [la.maroney@hosp.wisc.edu]
Sent: Tuesday, December 20, 2005 2:39 PM
To: Christianson, Peter C.
Subject: FW: Forensic Pathologists

> -----Original Message-----

> From: Dalessandro Anthony M
> Sent: Monday, December 19, 2005 6:16 PM
> To: 'scott.becher@legis.state.wi.us'
> Cc: 'pcc@quarles.com'; Maroney Lisa A.
> Subject: Forensic Pathologists

>
> Scott, After our discussion today with Jeff Jenzten I believe we can
> add a sentence in the Bill in Section 6, page 4 line 6. This would be
> after the first sentence in number 2 which discusses that the coroner,
> me or designee has the opportunity to be present if in their judgement
> the organ may be necessary in determining the cause of death. The next
> sentence could read something like: " In such cases, if available, a
> forensic pathologist should be consulted to discuss the case with the
> OPO administrator on call and/or the OPO recovering surgeon". Tony

>
> Anthony M.D'Alessandro M.D.
> Professor of Surgery
> Executive Director UWHC Organ Procurement Organization
> Tel: 608-263-2318
> Cell: 608-239-1055
> Fax: 608-262-9099
>

Kennedy, Debora

From: Maroney Lisa A. [la.maroney@hosp.wisc.edu]
Sent: Tuesday, December 20, 2005 2:40 PM
To: Christianson, Peter C.
Subject: FW: AB 830 Memo

Importance: High

-----Original Message-----

From: Bloch, Jodi [mailto:jbloch@wha.org]
Sent: Thursday, December 15, 2005 11:48 AM
To: scott_becher@legis.state.wi.us
Cc: Leitch, Laura; Maroney Lisa A.
Subject: AB 830 Memo
Importance: High

Scott,

A couple of suggested changes to the memo that WHA wants to see before sign off on AB 830. We got a copy of this from Lisa Maroney as you did not email this to Laura or I, so I hope you will give us a little slack in meeting your deadline for response. Here are our suggested revisions to Dick Sweet's memo.

Under the section, "Use of Tissue Banks for In-Hospital Deaths"

Regarding bullets one and two, both the first and the second bullets seem to assume that the coroner would not be releasing the body prior to tissue recovery. Does this encourage the coroners not to release the body even after their investigation is complete -- adding a layer of complexity for hospitals? WHA believes it makes more sense for the coroner to release the body, but then give the coroner the authority to regain custody of the body for purposes of tissue recovery if the hospital tissue banks refuse the tissue. Regarding bullet point three, we believe that the only requirement for the hospital should be to release the body to the coroner, not the "tissue bank" for removal of tissues outside of the hospital (in cases where the hospital contracted tissue bank refuses the donation). Let's remain silent on the contract issue as we will let individual hospitals, tissue banks and coroners work those issues out on their own if they want to do the recovery in the hospital.

Please let me know what you think. Thanks. - Jodi

Jodi Bloch
Vice President-Government Affairs
Wisconsin Hospital Association
608/268-1836
jbloch@wha.org

Kennedy, Debora

From: Becher, Scott
Sent: Wednesday, December 21, 2005 2:44 PM
To: Sweet, Richard; Kennedy, Debora
Subject: FW: Dick Sweet memo

From: Alice O'Connor [mailto:AOConnor@murphydesmond.com]
Sent: Wednesday, December 21, 2005 2:18 PM
To: Becher, Scott
Cc: redculad@newnorth.net; stanley@co.dane.wi.us; bbusby@co.winnebago.wi.us; jburgbacher@co.dodge.wi.us
Subject: Dick Sweet memo

Hi Scott,

The purpose of this email is to sign off on the Dick Sweet Memo with Rep. Wieckert's office and you with some clarifying comments. We of course, want to approve final language once it is available. As I mentioned to you today, we need more than 24 hours once the bill draft is available to review it. Additionally, because we are going into a holiday period and a lot of folks are not going to be around, a January 3rd vote might be a little too quick for us to have time to review. If you have consensus on the bill, delaying a vote until the middle of January would not harm its passage. We are asking for the courtesy of time so that all our members will have time for ample review on this complex legislation once a bill draft is available.

The one concern we want to be sure is very clear in the bill draft is that a coroner, medical examiner or their designee *may be present* with final authority to deny a potential organ donation. This happens so infrequently, none the less, if the coroner medical examiner or their designee are present on behalf to the coroner or medical examiner, they will retain the right to deny a donation. For those counties who are rural the designee language is critical and I believe John Stanley spoke to that.

WCMEA views this as a huge compromise and hopes that the positive working relationship that has existed with OPOs will make collaboration and cooperation a central part of their ongoing working relationships.

We have a different recollection of those parts of the memo that Dicks listed as lacking consensus.

It was our sense that language to be dropped from the bill draft included mandatory rotation which we oppose. We also thought that language had been accepted that would allow a tissue bank to be accredited by AATB or meet the standards for accreditation by AATB or be audited by an organization that is accredited by AATB.

We also thought there was agreement that if the tissue bank with which the hospital has an agreement refuses the tissue donation for an in hospital death, the coroner or medical examiner with jurisdiction of the decedant may then contact a different tissue bank. The coroner or medical examiner would make that contact because there was concern expressed about too many folks otherwise contacting a family.

For out of hospital deaths, we thought language dealing with "equal rotating basis" was dropped from the bill draft.

This summarizes points I believe John Stanley expressed at the meeting as the representative for the

12/21/2005

WCMEA. If you have any questions, please feel free to contact me.

Sincerely,

Alice

Alice M. O'Connor

Director of Government Relations

Murphy Desmond S.C.

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12/21/2005

Kennedy, Debora

From: Leitch, Laura [LLeitch@wha.org]
Sent: Wednesday, December 28, 2005 1:48 PM
To: Kennedy, Debora
Subject: FW: Coroner Tissue Bill
Importance: High
Attachments: 158080_1_tjs.pdf

Debora,

Below is Jodi's recent email to the coroners' lobbyist and the memo on the issue from Hall Render.

We'll let you know as soon as we hear back from the coroners.

Thanks for your help on this!

Laura

Laura Leitch
Vice President and General Counsel
Wisconsin Hospital Association
P 608-274-1820
F 608-274-8554

-----Original Message-----

From: Bloch, Jodi
Sent: Wednesday, December 28, 2005 11:55 AM
To: 'AOConnor@murphydesmond.com'
Cc: Leitch, Laura
Subject: RE: Coroner Tissue Bill
Importance: High

Alice,

Your were going to talk with the coroners again per your email below to Laura on last Thursday. I just wanted to forward you another piece of information that you may want to share. It is a health law alert from Hall Render regarding this issue. In discussing cases where the death occurred in a hospital, on the second page, in the second paragraph note under 4) "under no circumstances should a hospital allow the ME or Coroner to make a direct referral to the OPO or a tissue recovery agency as this would be in violation of the Federal regulations governing organ, tissue and eye procurement."

This is precisely why we need to remain silent on the issue of secondary donation if the coroner no longer has control over the body OR we must give the coroner explicit power to take control of the body again, because otherwise the hospital will be in violation of federal regulations as described in the alert. Let us know what your folks think. Thanks & Happy Holidays! - Jodi

Jodi Bloch
Vice President-Government Affairs

12/28/2005

Wisconsin Hospital Association
608/268-1836
jbloch@wha.org

Health Law Alert

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Hospital Responsibilities for Tissue Donation

July 6, 2005

Todd J. Selby, Esq.
Hall, Render, Killian, Heath & Lyman, P.S.C.

Executive Summary

On June 27, 2005, the Centers for Medicare & Medicaid Services ("CMS") issued correspondence surrounding tissue donation in Medical Examiner ("ME") and/or Coroner jurisdictional cases. The correspondence involved an inquiry from an ME concerning whether an ME could directly notify a tissue recovery agency. The ME would, in turn, request hospitals, in ME/Coroner cases, to contact the ME prior to contacting the Federally Designated Organ procurement Organization ("OPO") in tissue donation cases. CMS stated that under no circumstances could a hospital allow the ME to make direct contact with the tissue recovery agency.

Detailed Analysis

On June 27, 2005, CMS issued correspondence to an ME concerning the ME's ability to directly contact a tissue recovery agency with which the ME had a contractual relationship. CMS stated that under no circumstances could the ME make a direct referral to the tissue recovery agency as this would be in violation of Federal regulations governing organ, tissue, and eye procurement found at 42 CFR 482.45. CMS notified the ME that pursuant to 482.45(a)(1) and (a)(2), it is the hospital's responsibility to have an agreement with the designated OPO. Further, it is the hospital's responsibility to notify in a timely manner the OPO, or third party designated by the OPO, of individuals whose deaths are imminent or who have died in the hospital. Additionally, it is a hospital's responsibility and not that of the ME to have an agreement with at least one (1) tissue bank and at least one

(1) eye bank for the retrieval, processing, preservation, storage and distribution of tissue and eyes as may be appropriate to ensure that all potential donors are identified. It is unnecessary for the hospital to have a separate agreement with the tissue bank if the OPO is utilized for tissue recovery. CMS stated that to require a hospital to contact an ME or Coroner prior to notifying the OPO would circumvent the intent of the regulations which is to allow the hospital to make the direct referral to the OPO and not to the ME or Coroner.

In summary, it is the hospital's responsibility to: (1) notify the OPO in a timely manner of a patient's imminent death or that a patient has died in the hospital; (2) have a contract with the OPO; (3) have a contract with a tissue recovery agency in the event that the hospital does not contract with the OPO for tissue recovery; and, (4) under no circumstances should a hospital allow the ME or Coroner to make a direct referral to the OPO or a tissue recovery agency as this would be in violation of the Federal regulations governing organ, tissue and eye procurement.

Should you have any questions regarding the information above, please do not hesitate to contact your local counsel or Todd J. Selby at 317/977-1440 Hall, Render, Killian, Heath & Lyman, P.S.C.

About Hall Render:

Hall, Render, Killian, Heath & Lyman is a full service law firm with offices in Indiana, Kentucky, Michigan and Wisconsin. Since the firm was founded by William S. Hall in 1967, Hall Render has focused its practice primarily in the area of health law and is now recognized as one of the nation's preeminent health law firms.

Hall Render attorneys today serve the legal needs of all types and sizes of healthcare providers, from multi-billion dollar national health systems to sole practitioner physicians. In addition to its healthcare clients, the firm's attorneys also serve the legal needs of a wide variety of other businesses and individuals. Hall Render invites you to learn more about its services and professionals on its web site at www.hallrender.com.

This publication is intended for general information purposes only and does not and is not intended to constitute legal advice. The reader must consult with legal counsel to determine how laws or decisions discussed herein apply to the reader's specific circumstances.

2005

Date (time)
needed

Friday, 12/30

LRBs 0425 / P1

D-NOTE

DAK: MK:

SUBSTITUTE AMENDMENT [TO A BILL]

Use the appropriate components and routines developed for substitute amendments.

§ A SUBSTITUTE AMENDMENT

TO 2005 SB AB 830 LRB-

Create A.R.s

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; **relating to:**

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.